

May 21, 2009

Testimony to Senate Committee on Transportation, Tourism, Forestry, and Natural Resources

My name is Lowell Klessig. I live in Amherst Junction. I am a retired educator. My principal job was an Extension lake management specialist. Over the course of 27 years I worked with over 1000 communities and traveled virtually every highway in the state and many many local roads. I also taught at the College of Natural Resources at UW-Stevens Point and held several leadership roles with the Wisconsin Rural Leadership Program.

Concurrently, and continuing to the present, I operate a beef farm and manage forest land in Ashland, Bayfield, and Portage Counties. Thus I still spend a lot of time enjoying the Wisconsin landscape from my car window. I am President of the New Hope (our township) Family Forest Alliance and active in many civic organization including Citizens for Scenic Wisconsin.

Wisconsin has a reputation as one of the most beautiful states in the Union. On top of that beauty we have overlay thousands of non-conforming billboards as well as thousands of billboards that meet standards. We are a leader in the number of non-conforming billboards. If SB 173 becomes law, we will have that distinction forever. SB 173 sounds pretty innocent. **It is not.** It allows billboards which do not meet standards to be completely rebuilt every six years. It makes non-conforming billboards **permanent.**

Billboard control has been a public issue for almost a hundred years. When the Dean of the College of Agriculture at Cornell University commissioned the first county Extension agents he told them to go out and help communities with local issues. Among the short list of examples he used was "the increasing number of signs along the roads." That was in 1917.

In the 1960s Congress and the Wisconsin Legislature set standards for billboards. Then, as now, there were strong interests opposed to regulating billboards. Your predecessors had the courage to stand up to that pressure and vote for the interests of motorists on public roadways over the interests of billboard companies. They voted for orderly placement of billboards in appropriate commercial and industrial land use districts.

If you vote for SB 173, you will betray the trust those legislators put in their successors. The legislation they passed required the continuing courage of public officials to let non-conforming billboards die a natural death.

After 35 years no billboard owner could possibly claim that their structure had been fully amortized. Passage of SB 173 would mean the non-conforming billboards, no matter how inappropriately placed, will be there forever unless purchased by the DOT for a ridiculously high price based on income rather than on the value of the structure.

The billboard companies had their chance to defeat the non-conforming use provisions 35 years ago. They failed. They have been looking for a set of legislators with less courage ever since to undo those provision. I hope they don't find them in this committee and the 2009-2010 Wisconsin Legislature or ever.

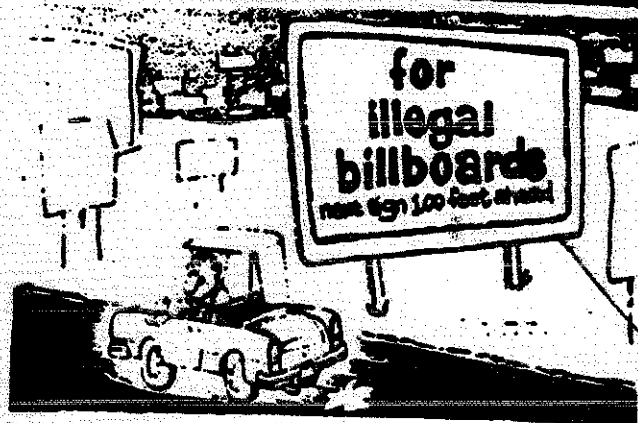
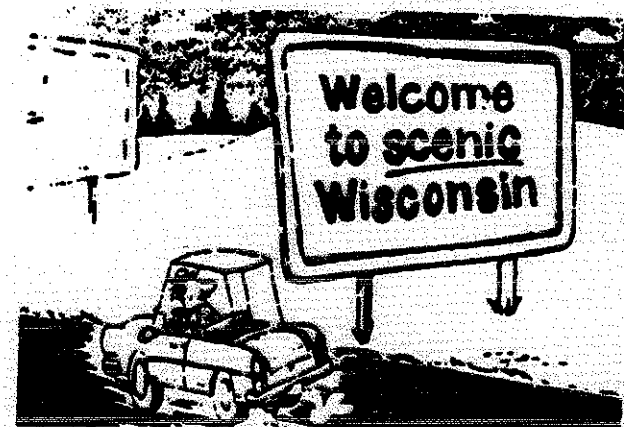
One final point regarding broader implications: Changing the DOT definition on non-conforming use will undercut local governments. Local governments have zoning (and sometimes stand alone sign ordinances) ordinances that have non-conforming language similar to the current DOT language. If signs along primary highways can be rebuilt every few years, opponents of local zoning will have a strong argument to revise local ordinances to also make the concept of non-conforming use meaningless there as well—to follow the State lead. “Non-conforming” structures of all types could then be removed from the landscape only with condemnation and purchase. Few local governments have the resources to use those tools except for direct purchase of highway right of ways.

I ask you to not let down your predecessors who had a vision for orderly billboard placement along major roads 40 years ago.

I ask you to not let down the motorists (residents and visitors) who value the beauty of Wisconsin's landscape but as individuals do not have a big enough stake to appear at a hearing like this.

I ask you to not let down the 1200 local units of governments who will have more difficulty managing land use if you change the DOT definition of non-coming use.

I ask you to not let down the taxpayers of this State who would have to subsidize the implementation of this bad public policy.



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May 21, 2009

MEMORANDUM

TO: Members of the Senate Committee on Transportation

FROM: Janet R. Swandby and Kathi Kilgore, Lobbyists

RE: **Support for Senate Bill 173 – Repair of Nonconforming Signs**

Wisconsin's outdoor advertisers urge you to support SB 173. This bill will clarify that repairs can be made to nonconforming signs up to 50% of the replacement cost of the sign every 36 months. Passage of this law will help the DOT and sign owners determine what repairs can be made to signs, help avoid costly litigation, and encourage sign owners to complete needed repairs to their signs which will be in the best interest of the traveling public and Wisconsin's tourism industry.

This bill passed the Assembly on a bi-partisan vote in the 2003-04 legislative session, and the Senate Transportation Committee voted unanimously to recommend passage, but there was not time for the Senate to vote on the bill. Last session, the Senate Transportation Committee voted unanimously to recommend passage. The vote in the Assembly Transportation Committee was 9-2 to recommend passage, but neither bill was taken up on the floor.

What's the problem?

Every year, lawfully constructed billboards become nonconforming. The owners of these signs did nothing to change the status of the sign. Instead, a change made by the state or local government means that a legal sign becomes nonconforming. Wisconsin law and administrative rules already limit the repairs that can be made to a nonconforming sign to 50% of replacement cost. This bill only clarifies the timeframe.

How large is the problem?

Almost half of all billboards in Wisconsin are considered nonconforming by Wisconsin DOT which means that repairs are limited on all of these signs.

These are not all old, wooden structures. Fewer than 3% of all the billboards in Wisconsin today were made nonconforming when the Federal Highway Beautification Act was implemented in 1972.

What do other states allow?

Almost all states have similar regulations. This bill is modeled after Minnesota and North Carolina's laws.

Why is this issue important for Wisconsin?

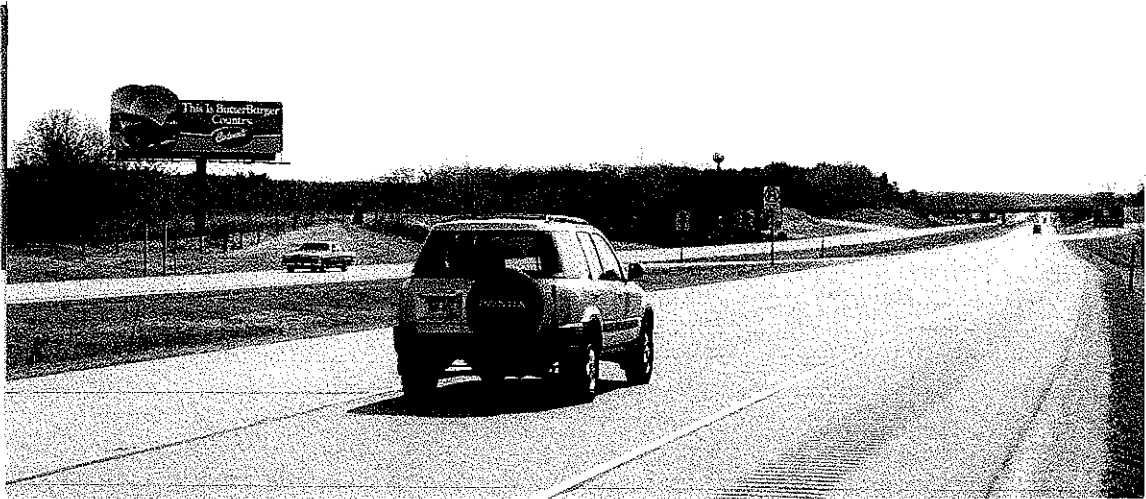
Most of the nonconforming signs in Wisconsin advertise tourism businesses -- hotels, tourism attractions, restaurants, golf courses, campgrounds, and gas stations. The State's economy is heavily dependent on the tourism industry.

Today owners of nonconforming signs are wary of making repairs to their signs because the limits are so vague. As a result, there are signs which are obviously in need of repair.

Dilapidated signs are an eyesore and do not reflect well on the State, especially to the out-of-state traveler. Well-maintained signs which can continue to advertise Wisconsin businesses are beneficial to the State and its economy.

Conclusion

The members of the Outdoor Advertising Association of Wisconsin urge you to recommend passage of SB 173. If you have questions about this issue, please feel free to give us a call at 608.286.0764 or at Swandby@swandby.com or Kilgore@swandby.com.

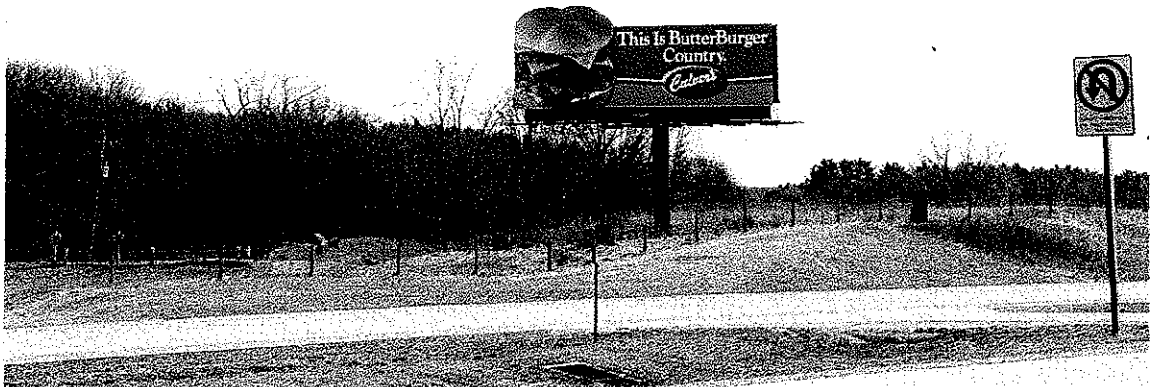


SIGN #1

What changed:

US 51 became Interstate 39.

Sign must be part of city or village
prior to Sept. 21, 1959.





SIGN #2

What changed:

WI 29 went from a 4-lane divide
Highway to a Freeway. This changed
sign spacing from 300' to 500'.

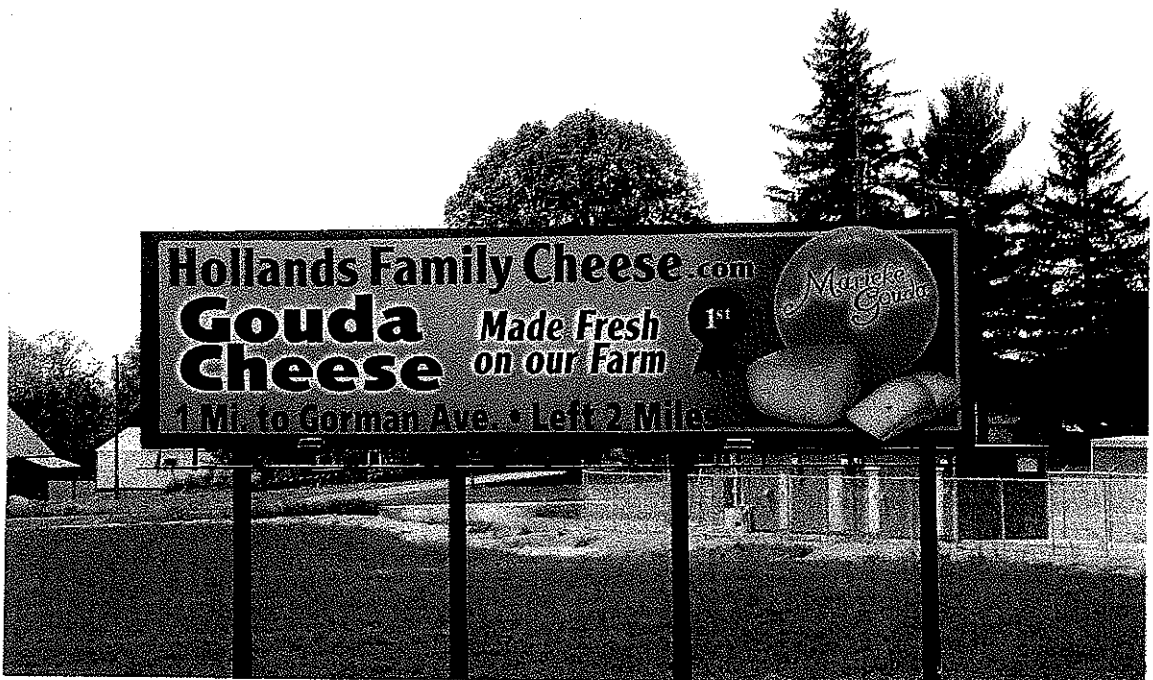




SIGN #3

What changed:

Intersection upgrade which widen and extended tapers from intersection.



Mr. Vernie Smith
540 E. South St.
Viroqua, Wisconsin 54665

SB 173 / AB 242 2009 Wisconsin Legislature –
to allow the perpetuation of nonconforming billboards.

Testimony in opposition.

I am opposed to SB 173 (AB 242) which would allow the perpetual rebuilding of nonconforming billboards. This has been brought up in previous legislative sessions.

I'm aware that several cosponsors sit on this committee. My hope is to communicate without rhetoric on my part. I am aware of our widely differing views as to how much off premise advertising should be allowed in our landscape, or for that matter what role the government should take in regulating it.

This bill, along with other bills introduced or passed at the request of the billboard lobby need to be considered in context. Whether it be public tree cutting for billboard visibility, limitations on community ability to influence aesthetics, or allowing electronic billboards (all passed in the 2005 session) – they are designed, cumulatively, to extend the reach of outdoor advertising into our lives and landscapes.

The Highway Beautification Act was passed by Congress in 1965 out of a growing national consensus that billboards were a national blight. It is the baseline for billboard control along our nation's highways. All states have to comply with it or risk loss of federal highway funding. Wisconsin's law, which was passed in 1972, mirrors the federal law – carrying out the minimal requirements.

The 1965 law was a compromise.

From the standpoint of scenic advocates it failed in the following areas: For all practical purposes it put no size limit on billboards. It placed no significant spacing requirements on billboards and it put few lighting limitations and no height limits on billboards. It also made it difficult and costly to remove existing billboards. And, finally, it not only didn't prohibit billboards, but allowed them in many locations.

But despite those failures the 1965 law did limit where new billboards could be built. *The compromise, then, was to allow billboards in locations where there was commercial activity on the landscape – and prohibit them in the rural areas, the countryside.* Despite many weaknesses, from a beautification standpoint, this is where the law has succeeded to a certain extent. And this is what your bill seeks to undermine.

Most nonconforming billboards are that way because of where they are located. That is, a new billboard cannot be legally constructed in that location today.

In the Beautification Act's early years, billboards were bought out and removed. Much sign clutter was eliminated from our highways, providing a legacy that we still benefit from. But the job was never completed.

Nonconforming billboards are allowed to receive some maintenance. They are not intended to be preserved indefinitely, which is what this bill seeks to do.

I strongly oppose this bill. It violates the Highway Beautification Act. It is not in the public interest.

Vernie Smith, President
Citizens for a Scenic Wisconsin.